

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

UNITED STATES OF AMERICA

v.

NO.: CR-2-08-029
JUDGE WATSON

THOMAS J. HASTINGS

PLEA AGREEMENT

The United States of America and Defendant **THOMAS J. HASTINGS** hereby enter into the following Plea Agreement pursuant to Rule 11(c) of the Federal Rules of Criminal Procedure:

1. Defendant **THOMAS J. HASTINGS** will enter a plea of guilty to Counts 1, 2 and 3 of the Indictment which charge him with bank fraud, in violation of 18 U.S.C. §1344 (Count 1); possession of false identification in order to commit bank fraud, in violation of 18 U.S.C. §1028(a)(7), §1028(b)(1)(D) and §1028(c)(3)(A)(Count 2); and possession of counterfeit money with intent to defraud, in violation of 18 U.S.C. §472(Count 3). The defendant also agrees to forfeit to the United States all of the assets set forth in Count 4 of the Indictment.

2. Defendant **THOMAS J. HASTINGS** understands the potential penalties that may be imposed pursuant to his plea of guilty to Count 1 of the Indictment are a possible maximum of thirty (30) years in prison, a \$1,000,000 fine, and a five (5) year term of supervised release. Defendant further understands that the

potential penalties that may be imposed pursuant to his plea of guilty to Count 2 of the Indictment are a possible maximum term or imprisonment of fifteen (15) years, a \$250,000 fine and a three (3) year term of supervised release. Defendant further understands that the potential penalties that may be imposed pursuant to his plea of guilty to Count 3 of the Indictment are a potential maximum penalty of twenty (20) years in prison, a fine of \$250,000, and a three (3) year term of supervised release.

3. Prior to the time the defendant is sentenced, he will pay to the U.S. Department of Justice special assessments in the amount of \$300.00, as required in 18 U.S.C. §3013. These assessments shall be paid by the defendant before sentence is imposed and defendant will furnish a receipt at the time of sentencing. The payments shall be made to the U.S. District Court, at the Clerk's Office, 85 Marconi Blvd., Columbus, Ohio 43215.

4. Defendant **THOMAS J. HASTINGS** agrees to provide a complete statement to authorities of the United States concerning his involvement in the bank fraud, identity theft and counterfeiting crimes set forth in the indictment and further agrees to assist authorities to identify all actual and potential victims of these crimes. Pursuant to §1B1.8 of the Federal Sentencing Guidelines, the government agrees that any self-incriminating information so provided will not be used against the defendant in determining the

applicable guideline range for sentencing, or as a basis for departure from such guideline range.

5. If such plea of guilty is entered, and not withdrawn, and the Defendant **THOMAS J. HASTINGS** acts in accordance with all other terms of this agreement, the United States Attorney agrees not to file additional criminal charges against Defendant **THOMAS J. HASTINGS** based on his activities charged in the Indictment and/or based on other unlawful activities related to bank fraud, identity theft and trafficking and/or producing counterfeit money, occurring prior to the date of the indictment in the Southern District of Ohio and as to which the Defendant gives testimony or makes statements pursuant to this agreement.

6. By virtue of the defendant pleading guilty to Counts 1, 2 and 3 of the Indictment in exchange for an agreement to not bring additional charges based on his activities charged in the Indictment, the defendant understands that he is not a prevailing party as defined by 18 U.S.C. §3006A and hereby expressly waives his right to sue the United States.

7. The parties agree that, pursuant to U.S.S.G. §2B1.1(a)(1) & §1B1.3, the base offense level attributable to the Defendant **THOMAS J. HASTINGS**, in connection with Counts 1 and 2, is an offense level 7, since the defendant is pleading guilty to an offense referenced to that guideline and the bank fraud offense has a statutory maximum term of imprisonment of 20 years or more. The

parties understand that this agreement is not binding on the Court and the final determination concerning the base offense level attributable to the defendant for purposes of sentencing rests with the Court.

8. The parties further agree that, pursuant to U.S.S.G. §2B1.1(b)(1)(G), the amount of loss attributable to the defendant, in connection to Counts 1 and 2, is more than \$200,000 but less than \$400,000, resulting in a 12 level increase in the base offense level. The parties understand that this agreement is not binding on the Court and the final determination concerning the amount of loss attributable to the defendant for purposes of sentencing rests with the Court.

9. The defendant understands that, pursuant to U.S.S.G. §2B1.1(b)(2), the number of victims of the offenses to which he is pleading guilty in the Indictment have not yet been identified by the United States. The defendant is aware that if the Court determines at the time of sentencing that there are 10 or more victims, his base offense level will be increased by two levels; if 50 or more victims, his base offense level will be increased by four levels; and if 250 or more victims, his base offense level will be increased by six levels. The parties understand that the final determination concerning the number of victims attributable to the defendant for purposes of sentencing rests with the Court.

10. The parties further agree that, pursuant to U.S.S.G. §2B1.1(b)(10)(C)(ii), the offenses outlined in Counts 1 and 2 of the Indictment involved the possession of 5 or more means of identification that unlawfully were produced from, or obtained by the use of, another means of identification, resulting in a two level increase in the base offense level. The parties understand that this agreement is not binding on the Court and the final determination concerning this specific offense characteristic for purposes of sentencing rests with the Court.

11. The parties further agree that the amount of counterfeit U.S. currency possessed and/or passed by the defendant in connection to Count 3 of the Indictment was \$5,000. The parties understand that this agreement is not binding on the Court and the final determination concerning the amount of counterfeit money attributable to the defendant for purposes of sentencing rests with the Court.

12. The parties further agree that the defendant had neither a supervisory role nor a minor/minimal role in the offenses outlined in Counts 1 through 3 of the Indictment. Therefore, pursuant to U.S.S.G. §3B1.1 and §3B1.2, there should be neither an increase nor a decrease in the base offense level for role in the offense. The parties understand that this agreement is not binding on the Court and the final determination concerning role in the offense for purposes of sentencing rests with the Court.

13. The United States Attorney for the Southern District of Ohio recommends that as of the time of the execution of this Plea Agreement the defendant, **THOMAS J. HASTINGS**, has accepted responsibility for the offense to which he has agreed to plead guilty. If the defendant continues to accept responsibility through the time of sentencing, the United States will advise the District Court, pursuant to U.S.S.G. §3E1.1(b), that the defendant has timely notified authorities of his intention to plead guilty and that he is entitled to an overall three level reduction for acceptance of responsibility.

14. Pursuant to Count 4 of the Indictment, Defendant, **THOMAS J. HASTINGS** agrees to forfeit to the United States for destruction or other disposition any personal property used or intended to be used to commit the offenses in Counts 1 through 3 of the Indictment, including but not limited to all computer equipment, copies of checks, copies of credit card receipts, birth certificates, identification cards, counterfeit checks, Social Security cards, IRS Forms W-2, military records and Social Security printouts, which were seized during the execution of a search warrant at Room 239, Inn Town Suites, 2420 East Dublin Granville Rd., Columbus, Ohio on January 16, 2008.

15. Defendant, **THOMAS J. HASTINGS**, agrees to make restitution to all victims of the offenses outlined in Counts 1 through 3 of the Indictment. The defendant understands that the amount of

restitution owed to said victims is still under investigation and a total amount has yet to be determined. The defendant agrees to assist investigating agents in identifying all victims and the amount of restitution owed.

16. Defendant **THOMAS J. HASTINGS** is aware that the United States Sentencing Guidelines and Policy Statements are no longer mandatory in determining his sentence. However, the defendant also understands that said guidelines and policy statements will be given consideration by the District Court, in conjunction with all other sentencing factors set forth in 18 U.S.C. §3553(a), to determine the appropriate sentence, pursuant to U.S. v. Booker, 543 U.S. 220 (2005). The defendant is further aware that the District Court has jurisdiction and authority to impose any sentence within the statutory maximum set forth for the offense to which the defendant pleads guilty. The defendant is aware that the Court has not yet determined a sentence. The defendant is also aware that any estimate of the probable advisory sentencing range under the United States Sentencing Guidelines that the defendant may have received from the defendant's counsel, the United States, or the probation office, is a prediction, not a promise, and is not binding on the United States, the probation office, or the Court. The United States makes no promise or representation concerning what sentence the defendant will receive, and the defendant cannot withdraw the guilty plea based upon the actual sentence imposed.

17. Defendant, **THOMAS J. HASTINGS**, understands that this agreement does not protect him from prosecution for perjury, should he testify untruthfully, or for making false statements, nor does it protect him, from prosecution for other crimes or offenses as to which he does not make admissions or give truthful information and which the United States discovers by independent investigation. Further, should Defendant **THOMAS J. HASTINGS** fail to comply with the terms and conditions set forth herein or should he fail to appear as required for sentencing, this agreement is voidable at the election of the United States, and Defendant **THOMAS J. HASTINGS** shall be subject to prosecution as if the agreement had never been made.

18. It is agreed that if the Court refuses to accept any provision of his Plea Agreement, neither party is bound by any of its provisions, Defendant **THOMAS J. HASTINGS** may withdraw his guilty plea, and the United States Attorney for the Southern District of Ohio may pursue prosecution of the same or additional charges without prejudice. In such case, it is also agreed that any self-incriminating statements made by the defendant, pursuant to this agreement, shall be considered as part of plea negotiations and subject to the restrictions of Rule 11(f) of the Federal Rules of Criminal Procedure.

19. No additional promises, agreements or conditions have been made relative to this matter other than those expressly set forth herein, and none will be made unless in writing and signed by all parties.

DATED

THOMAS J. HASTINGS
Defendant

STEVE NOLDER
Assistant Federal Public Defender
Attorney for Defendant

GREGORY G. LOCKHART
United States Attorney

ROBYN J. HAHNERT (0022733)
Assistant U.S. Attorney